

UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

In re:

Mirna Ferla

Debtor

Chapter 13

Case Number 21-10850-DF

Honorable Diane Finkle

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OBJECTIONS TO CONFIRMATION

NOW COMES Creditor, U.S. Bank Trust National Association, not in its individual capacity, but solely as Trustee of LSRMF MH Master Participation Trust II, by and through its attorneys Orlans PC, and hereby Objects to Confirmation of the debtor's Plan as follows:

1. On or about January 5, 2004, Mirna Ferla ("Debtor") executed a Mortgage to Countrywide Home Loans, Inc. (the "Mortgage").
2. The Mortgage is a first mortgage on real property owned by the Debtor known and numbered as 182 Pocahontas Drive, Warwick, RI 02888, which is the Debtor's residence.
3. U.S. Bank Trust National Association, not in its individual capacity, but solely as Trustee of LSRMF MH Master Participation Trust II ("U.S. Bank") is the current holder of the Mortgage.
4. The Mortgage is materially in default.
5. As of November 29, 2021, the pre-petition arrearage totaled \$214,609.08, as evidenced in Proof of Claim 12-1 filed February 18, 2022.

6. In Part 3 of the Plan, Debtor proposes to maintain the post-petition contractual payments by making monthly mortgage payments directly to U.S. Bank. The monthly payment is \$2,180.97. *See Proof of Claim #12-1.*
7. In Part 4 of the Plan, Debtor indicates that the pre-petition arrearage will be cured through a loan modification. Debtor did apply for a loan modification, but did not submit all required documentation. The Plan does not provide any timeframe for Debtor to complete the loan modification process, nor does it include any alternative treatment should the loan modification be denied.
8. The Plan is speculative and should not be confirmed as feasibility cannot be determined as required by 11 U.S.C. § 1325(a)(6).
9. Debtor values the property at \$600,000. The total amount due to U.S. Bank is \$424,955.29. *See Proof of Claim 12-1.* There are no senior lien holders. The Claim of U.S. Bank is not undersecured, and the loan cannot be modified through the Chapter 13 Plan under 11 U.S.C. § 506.
10. The Mortgage is further non-modifiable pursuant to 11 U.S.C. § 1322(b)(2).
11. U.S. Bank would need to receive the regular monthly mortgage payment of \$2,180.97 plus at least \$5,961.36 a month on the pre-petition arrearage in the order for the arrearage to be cured within the term of the Plan by making monthly payments.
12. Line 23 c. of Debtor's Schedule J indicates a monthly net income of \$365.00.
13. Debtor's Chapter 13 Plan appears underfunded and infeasible to pay the post-petition monthly mortgage payments and cure the pre-petition arrearage within a reasonable length of time.

WHEREFORE, U.S. Bank Trust National Association, not in its individual capacity, but solely as Trustee of LSRMF MH Master Participation Trust II by and through its attorneys requests that this Objection be sustained and Confirmation of the Plan be denied.

Date: March 2, 2022

Respectfully Submitted,

/s/ Stefanie D. Howell

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Orlans PC

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